

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CASE NO.

SARA LAMSON CUMBUS

05-01435-5-ATS

DEBTOR

ORDER ALLOWING MOTION FOR PROTECTIVE ORDER

The matter before the court is the motion for protective order filed by The Matsco Companies. A hearing took place in Raleigh, North Carolina on July 27, 2005.

Sara Lamson Cumbus filed a petition for relief under chapter 7 of the Bankruptcy Code on April 12, 2005. The Matsco Companies assert a blanket lien on the assets of the debtor's business, Greenwood Veterinary Hospital, P.C., which is also a chapter 7 debtor. The Matsco Companies have obtained an extension of time in which to object to Dr. Cumbus' discharge, but no adversary proceeding has been filed.

Dr. Cumbus served a request for production of documents on The Matsco Companies pursuant to Rule 7034 of the Federal Rules of Bankruptcy Procedure. The Matsco Companies filed the instant motion for protective order, contending that there is neither an adversary proceeding nor a contested matter pending, and the request for production is procedurally inappropriate.

The court agrees with The Matsco Companies. Rule 7034 makes Rule 34 of the Federal Rules of Civil Procedure applicable in adversary proceedings. Rule 9014 of the Federal Rules of Bankruptcy Procedure makes Rule 7024 applicable in "contested matters." Because there is no adversary proceeding nor a contested matter pending between Dr. Cumbus and The Matsco Companies, the request for production is procedurally deficient.

Based on the foregoing, the motion for protective order is **ALLOWED**, and The Matsco Companies are not required to respond to Dr. Cumbus' request for production of documents.

SO ORDERED.

DATED: July 28, 2005

A handwritten signature in cursive script, appearing to read "A. Thomas Small", written over a horizontal line.

A. Thomas Small
United States Bankruptcy Judge